MONTANA LEGISLATIVE HISTORY

Chapter 28 19 95

Bill H 75 S _____ Original bill & history ✓ C

H. Committee on Natural Resources			S. Committee on Natural Resources		
Hearing Date(s)	Jan 06	✓ C	Hearing Date(s)	Jan 20	✓ C
	Jan 09	✓ C		Jan 23	✓ C
	Jan 11	✓ C			C
		C			C
Date Out	Jan 12	✓ C		Jan 23	✓ C

Did this bill originate in an interim committee? ____ Yes ____ No

Committee _____ Report _____

CASE OF THE PARTY REQUESTING THE JURY TO BE FRIVOLOUS OR BROUGHT FOR PURPOSES OF HARASSMENT

12/30	INTRODUCED		
1/03	FIRST READING		
1/03	REFERRED TO JUDICIARY		
1/03	FISCAL NOTE REQUESTED		
1/05	FISCAL NOTE RECEIVED		
1/05	FISCAL NOTE PRINTED		
1/10	HEARING		
1/13	TABLED IN COMMITTEE		
2/10	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/13	2ND READING PASSED	81	18
2/14	3RD READING PASSED	90	10
	TRANSMITTED TO SENATE		
2/20	FIRST READING		
2/20	REFERRED TO JUDICIARY		
3/10	HEARING		
3/13	TABLED IN COMMITTEE		
3/23	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
3/28	2ND READING CONCURRED	24	23
3/29	3RD READING FAILED	15	30

HB 75 INTRODUCED BY WISEMAN

AUTHORIZE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES TO ESTABLISH AND ENFORCE STANDARDS FOR MANAGEMENT OF USED OIL

BY REQUEST OF THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES

1/03	INTRODUCED		
1/03	FIRST READING		
1/03	REFERRED TO NATURAL RESOURCES		
1/03	FISCAL NOTE REQUESTED		
1/06	HEARING		
1/09	FISCAL NOTE RECEIVED		
1/09	FISCAL NOTE PRINTED		
1/13	COMMITTEE REPORT—BILL PASSED AS AMENDED		
1/14	2ND READING PASSED	70	28
1/16	3RD READING PASSED	70	30
	TRANSMITTED TO SENATE		
1/17	FIRST READING		
1/17	REFERRED TO NATURAL RESOURCES		
1/20	HEARING		
1/24	COMMITTEE REPORT—BILL CONCURRED		
1/25	2ND READING CONCUR MOTION FAILED	24	26
1/26	2ND READING CONCURRED	35	14
1/27	3RD READING CONCURRED	41	8
	RETURNED TO HOUSE		
1/30	SIGNED BY SPEAKER		
1/31	SIGNED BY PRESIDENT		
2/01	TRANSMITTED TO GOVERNOR		
2/06	SIGNED BY GOVERNOR		

CHAPTER NUMBER 28
EFFECTIVE DATE: 02/06/95

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
54th LEGISLATURE - REGULAR SESSION

COMMITTEE ON NATURAL RESOURCES

Call to Order: By **REP. DICK KNOX, Chairman,** on January 6, 1995, at 3:00 p.m.

ROLL CALL

Members Present:
Rep. Dick Knox, Chairman (R)
Rep. Bill Tash, Vice Chairman (Majority) (R)
Rep. Bob Raney, Vice Chairman (Minority) (D)
Rep. Jon Ellingson (D)
Rep. Daniel C. Fuchs (R)
Rep. Hal Harper (D)
Rep. Karl Ohs (R)
Rep. Scott J. Orr (R)
Rep. Paul Sliter (R)
Rep. Robert R. Story, Jr. (R)
Rep. Jay Stovall (R)
Rep. Lila V. Taylor (R)
Rep. Cliff Trexler (R)
Rep. Carley Tuss (D)
Rep. Douglas T. Wagner (R)

Members Excused: **Rep. Aubyn Curtiss, Rep. David Ewer, Rep. Emily Swanson**

Members Absent: None

Staff Present: Michael Kakuk, Environmental Quality Council
Alyce Rice, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:
Hearing: HB 75, HB 72
Executive Action: HB 50

HEARING ON HB 75

Opening Statement by Sponsor:

REP. BILL WISEMAN, House District 41, Great Falls, said HB 75 was requested by the Department of Health and Environmental Sciences. For years the Environmental Protection Administration (EPA) has had strict rules for handling used oil but Montana has never had the same restrictions. The main part of the bill is on pages 8

and 9 which states the penalties for people who mishandle used oil.

Proponents' Testimony:

Roger Thorvilson, Acting Division Administrator, Waste Management Division, Health and Environmental Sciences. Written testimony. **Exhibit 1.**

Bill Allen, Montana Audubon Legislative Fund. Written testimony. **Exhibit 2.**

Ronna Alexander, Montana Petroleum Marketers Association (MPMA) said the association is the wholesaler and distributor of petroleum products in Montana. The industry supports the contents of HB 75, however a language amendment has been offered. **Exhibit 3.** It is important that Montana does adopt the rules governing the management of oil to ensure that it is handled properly. The people in the oil industry also need to be protected against liability problems.

Steve Turkiewicz, Montana Automobile Dealers Association (MADA), said the association is supportive of HB 75 with the amendments proposed by the Petroleum Marketers' Association. MADA feels that the adoption of EPA's proposal is enough for the legislature to give that authority and no more, to the Department of Health and Environmental Sciences. MADA supports the bill with the proposed amendments.

Joanna Johnson, National Oil Recycling Association, Automotive Oil Change Association supports HB 75 because it sets the groundwork to adopt 40 CFR part, 279. This rule is very protective of the environment and promotes used oil collection. It classifies used oil destined for recycling as non-hazardous waste. This is necessary in order to maintain the used oil recycling chain. The classification encourages service stations to collect used oil. It is the do-it-yourselfers' used oil that ends up in sewers. Also, the service station dealer exemption is important. **Ms. Johnson** encouraged the legislature to consider expanding the definition of the service station dealer exemption sometime in the future.

Roger Bessler, President, Oily Waste Processors, Great Falls, supports HB 75 and the amendments proposed by the MADA.

Ann Hedges, Montana Environmental Information Center, said her office receives a lot of calls from the public asking what they should do with used oil. **Ms. Hedges** said HB 75 makes her feel more comfortable turning the calls over to the Department of Environmental Sciences. This bill recognizes the danger used oil poses. The public is no longer dumping used oil in back alleys. They understand that something proper must be done with it. The bill is a reasonable, although limited approach. The Center

believes it should be expanded in the future. **Ms. Hedges** urged the committee to support HB 75.

Opponents' Testimony: None

Informational Testimony: None

Questions From Committee Members and Responses:

REP. DOUGLAS WAGNER, House District 83, Hungry Horse, asked **Roger Thorvilson** if individual homeowners will be exempt from the rules for used oil. **Mr. Thorvilson** replied yes. **REP. WAGNER** asked **Mr. Thorvilson** if the bill proposes to let the state decide if oil is a hazardous waste. **Mr. Thorvilson** said the EPA decided that used oil shouldn't be listed as hazardous waste and that it was not the best approach because they didn't want to discourage recycling by establishing too heavy a control on material. The EPA developed under their authority, in their hazardous waste program, the ability to regulate used oil without listing or identifying it as hazardous waste. Their intention was to give the state the same authority.

REP. JON ELLINGSON, House District 65, Missoula, asked if there is any used oil that is not hazardous. **Mr. Thorvilson** said there is used oil that is not hazardous. If some used oils were tested against the criteria, they would test as hazardous. That was particularly the case in the past when there was more leaded fuel. Historically, used oil was often mixed with hazardous waste, but for the most part, used oil is not hazardous. **REP. ELLINGSON** asked **Mr. Thorvilson** if he would agree that the language in the bill that identifies that some used oil is not hazardous, clarifies ambiguity rather than creates one. This is in reference to the proposed amendments which asks that this language be stricken. **Mr. Thorvilson** said it was his understanding that the department attorney and the bill drafter decided that was the best language to use to clarify the intent of the bill.

REP. CLIFF TREXLER, House District 59, Corvallis, asked **Mr. Thorvilson** what part of HB 75 exempts the homeowner. **Mr. Thorvilson** said that is not in the text of the bill. It is a provision of the regulations that has already been developed by the EPA.

REP. WAGNER asked **Roger Bessler** if he currently keeps oil records and how often the state checks those records. **Mr. Bessler** said the state comes to his place of business on a regular hazardous waste inspection and record review about once a year.
Tape 1 Side B

Closing by the Sponsor:

REP. BILL WISEMAN said for years used oil was handled very carelessly in the State of Montana. **Roger Bessler** saw an

opportunity as a private entrepreneur to build a plant in Great Falls to process used oil. He now collects oil from different areas of the state and processes it in his plant and sells it to asphalt plants, industrial institutions, or homeowners that need heating oil. **Mr. Bessler** has built a plant, pays taxes, and still supports this legislation. **REP. WISEMAN** urged the committee to support HB 75.

HEARING ON HB 72

Opening Statement by Sponsor:

REP. CHARLES DEVANEY, House District 97, Plentywood, said he is sponsoring HB 72 at the request of the Board of Oil and Gas Conservation. The board is authorized by rule to set drilling permit fees not to exceed $200 and institutes a fee of $50 for filing a notice of change of operator. The board is funded proprietorialy and the fees have not been adjusted since 1954. Since 1954 there have been many changes in the oil and gas industry and the regulatory burden associated with it. These changes have substantially increased the administrative responsibility of the board. This bill provides the funding to accomplish the required task.

Proponents' Testimony:

Tom Richmond, Administrator and Petroleum Engineer, Board of Oil and Gas, Billings, said HB 72 changes the drilling permit fee from the three-tier level by depth, to a single fee. The bill also provides for a fee for a change of operator. It allows the board to establish both fees by rulemaking. There would be a public hearing before the fees could be adopted. The board has always collected a drilling permit fee for new wells. The board by rule, has required a drilling permit fee for the deep drilling of a well which is defined as the drilling out of plugs of a previously plugged well. A fee is not charged for re-entering or working on a well that exists and has not been plugged. The bill authorizes the collection of a fee for the deepening of a well. The board by rule has collected the difference in the depth fees or deepening in the past. If a well is deepened within a certain depth range a fee is collected; if a well is deepened within the next depth range the difference is collected. The bill also authorizes the collection of a drilling fee for a horizontal re-completion which is a new technology. The operator fee is to recover some of the administrative costs involved in the procedures of changing operators. In checking with other states it was found that several states are now collecting change of operator fees and a number of states are collecting drilling permit fees substantially different from what they used to collect. Wyoming is the only state that still hasn't done anything to its drilling permit fee. The fee is $25. North Dakota collects a $100 drilling permit fee and a $25 change of operator fee. South Dakota collects a $200 drilling permit fee and a $25 change of operator fee. Alaska charges a $100 drilling

HOUSE OF REPRESENTATIVES

Natural Resources

ROLL CALL DATE 1-6-95

NAME	PRESENT	ABSENT	EXCUSED
Rep. Dick Knox, Chairman	✓		
Rep. Bill Tash, Vice Chairman, Majority	✓		
Rep. Bob Raney, Vice Chairman, Minority	✓		
Rep. Aubyn Curtiss			✓
Rep. Jon Ellingson	✓		
Rep. David Ewer			✓
Rep. Daniel Fuchs	✓		
Rep. Hal Harper	✓		
Rep. Karl Ohs	✓		
Rep. Scott Orr	✓		
Rep. Paul Sliter	✓		
Rep. Robert Story	✓		
Rep. Jay Stovall	✓		
Rep. Emily Swanson			✓
Rep. Lila Taylor	✓		
Rep. Cliff Trexler	✓		
Rep. Carley Tuss	✓		
Rep. Doug Wagner	✓		

EXHIBIT
DATE 1-6-95
HB 75

Department of Health & Environmental Sciences
Testimony in Support of HB 75

House Natural Resources Committee
January 6, 1995

The department has operated a state hazardous waste program pursuant to state law and under an authorization agreement with the US EPA since 1981. Under the "Findings and Purpose" section (§ 75-10-402) of the Montana Hazardous Waste and Underground Storage Tank Act (MHWUSTA), it is stated that *"The legislature finds that the safe and proper management of hazardous wastes, the permitting of hazardous waste facilities, and the siting of facilities are matters for statewide regulation and are environmental issues that should properly be addressed and controlled by the state rather than by the federal government."* The amendments to MHWUSTA set forth in this bill are necessary to update the state program, to maintain its equivalence with the federal hazardous waste program, and to ensure that regulatory controls are exercised by the state, rather than the federal government, in Montana. Another purpose of the bill, and of the administrative rules that the department intends to adopt upon passage of the bill, is to foster used oil recycling as opposed to disposal.

Should this bill be enacted, the department will exercise MHWUSTA authority over the management of used oil and will adopt administrative rules equivalent to those adopted by the US EPA in 1992 and codified in 40 CFR Part 279. To a significant extent collectors and processors of used oil in Montana and surrounding states already are meeting the requirements of 40 CFR Part 279. Passage of this bill, therefore, will not cause any significant disruptions in the current system of used oil collection and management.

I am providing as a handout an EPA summary of the Part 279 used oil management standards. You will note from this summary

that the used oil regulations address:

- Generators of used oil
- Collectors/marketers
- Transfer facilities
- Processors & re-refiners
- Fuel burners
- Used oil disposal

The regulatory burden of the rules is concentrated on the collectors and marketers of used oil and on the ultimate re-refining or fuel burning facilities; the requirements are minimal for those who generate used oil and consign it to others for management. The regulations ban used oil as a dust suppressant on roads, parking lots, etc. Montana is among the last few states nationally to enact this ban. Exemptions are provided in the regulations for:

- Individual household generators of used oil;
- Farmers producing less than 25 gallons/month;
- Use as a fuel in oil-fired space heaters (conditional exemption);
- Direct reuse of used oil from diesel engines by way of blending it back in as a partial diesel fuel substitute.

The authority of the department to adopt administrative rules under MHWUSTA is limited by language in § 75-10-405(2): *"The department may not adopt rules under this part that are more restrictive than those promulgated by the federal government under the Resource Conservation and Recovery Act of 1976 ...."* Passage of this bill will allow the department to accomplish the necessary and important updating of its rules to conform with those regulations already published by the US EPA. It will ensure that regulatory decisions and compliance decisions which apply to used oil handlers within Montana will be formulated in Montana, not in Denver or Washington. There is no projected fiscal impact related to this bill; rulemaking and implementation will be absorbed within the program's normal implementation scheme. The department urges your favorable consideration of this bill.

Testimony provided by Roger Thorvilson
Dept. of Health & Environmental Sciences
Ph. 444-1430

1981 Legislature

EXHIBIT 1
DATE 1-6-95
HB 75

STATEMENT OF INTENT
SENATE BILL 212
Senate Public Health Committee

A statement of intent is required for this bill because it delegates rulemaking and licensing authority to the Department of Health and Environmental Sciences. Senate Bill 212 is intended to separate from the existing Montana Solid Waste Management Act (Title 75, chapter 10, part 2) all references to the treatment, storage, disposal, generation, and transportation of hazardous wastes and place the statutes regulating hazardous wastes into a separate part of the code. The specific objective and intent of the bill is to clarify and extend state rulemaking authority in order to be totally authorized by the Administrator of the Environmental Protection Agency (EPA) to operate a hazardous waste program in Montana which is equivalent to and in lieu of the federal hazardous waste program established by Subtitle C of the Resource Conservation and Recovery Act (RCRA) of 1976, P.L. 94-580, as amended.

The rules promulgated and permitting procedures adopted under this bill shall meet minimum standards under RCRA and shall not be more restrictive than those analogous provisions in which EPA has adopted regulations under RCRA. In the limited situations in which no federal regulations have been adopted or the drafting of regulations has been purposefully left to the states, the Department must be guided and constrained by the purpose set forth in Section 9, the powers of the Department noted in Section 11, the rulemaking guidelines of Section 12, and the minimum requirements of RCRA.

It should be noted that Montana has enacted regulatory provisions under existing Title 75, chapter 10, part 2, the Solid Waste Management Act, and has sufficient coverage of hazardous waste responsibilities enabling the state to qualify for interim authorization from EPA to carry out a program in lieu of the federal RCRA hazardous waste program. This bill grants the Department authority to make additional adjustments, through rulemaking, which will bring its program affecting generators and transporters of hazardous wastes, the universe of hazardous waste, inspection and sampling, definitions, enforcement alternatives and penalties into equivalency and consistency with federal requirements.

Senate Bill 212 intends that the Department of Health and Environmental Sciences shall have authority to require by rule, in accordance with the Montana Administrative Procedure Act, that generators of hazardous wastes, prior to transporting hazardous wastes or offering them for transport offsite, must perform certain packaging, labeling, marking and placarding of the wastes in a manner equivalent to the provisions of federal regulations contained in 40 CFR 262.30 through 262.33. The Department shall

have authority under the bill to adopt rules setting penalties or fines for generators of hazardous wastes that set upper limitations which are no less than the amount of $10,000 per day, as required for final authorization under the federal program. Furthermore, Senate Bill 212 allows additional rulemaking to clarify the Department's authority to make inspections of and take samples from generators of hazardous wastes in a manner equivalent to federal inspection authority provided in Section 3007 of RCRA and federal rules promulgated under RCRA.

Under existing law, the Department has promulgated rules which define a broad spectrum of hazardous wastes (the universe of hazardous wastes) by specific listing and by characteristics; which list exclusions from the definition of hazardous waste; which define terms necessary to implement the hazardous waste program; which establish manifest requirements specifying how a hazardous waste is documented from time of generation through transport to time of disposal by the operator of a treatment, storage or disposal facility; which set recordkeeping and emergency cleanup procedures for transporters of hazardous wastes; which establish licensure procedures and standards for operators of hazardous waste treatment storage and disposal systems; and which provide enforcement alternatives for treatment, storage and disposal facility licenses. All of the existing rules are equivalent to and consistent with the federal program established by RCRA; in many instances, EPA rules have been incorporated by reference.

Under Senate Bill 212, the Department will have authority to amend and revise these rules, and to adopt new rules, in accordance with the Montana Administrative Procedure Act, which may be needed to meet changing minimum federal standards for a hazardous waste program authorized for state control under RCRA, as amended. Thus, Montana will be able to continue to maintain federal authorization for an independent hazardous waste program, equivalent to the federal program, but operated by the Department.

First adopted by the Senate Public Health Committee on the 9th day of February, 1981.

United States
Environmental Protection
Agency

Solid Waste and
Emergency Response
(OS-305)

EP/530-F-92-018
August 1992

Office of Solid Waste

EPA

Environmental Fact Sheet

Management Standards Issued To Control Potential Risks from Recycled Used Oil—No Hazardous Waste Listing

The Environmental Protection Agency (EPA) has issued management standards for recycled used oil that protect human health and the environment while promoting recovery of this valuable commodity. These management standards avoid unnecessary regulatory and financial burdens on the used oil recycling industry—particularly service station dealers.

Action

EPA has issued management standards for recycled used oil that provide strong safeguards against any potential types of mishandling that may occur. The management standards address potentially unsafe practices associated with improper storage of used oil, road oiling, and contamination of used oil from hazardous waste. By controlling these practices with management standards, listing recycled used oil as a hazardous waste is unnecessary.

The management standards cover all segments of the used oil recycling system, and are codified in a new Part 279 of Title 40 of the *Code of Federal Regulations* (CFR). While generators are the largest segment of this industry, the most stringent standards apply to used oil processors and re-refiners because they handle the largest quantities of used oil. The standards are not expected to cause major economic impacts, but are designed to correct and control certain practices. They prohibit storage in unlined surface impoundments and road oiling (except in states authorized to manage their own hazardous waste programs).

Requirements for Service Stations and Other Generators

A generator is any business which produces used oil through commercial or industrial operations, or that collects it from these operations or private households. Besides vehicle repair shops and service stations, some of the more common examples of used oil

EXHIBIT 1
DATE 1-6-95
HB 75

generators are military motorpools; taxi, bus, and delivery companies; and shipyards. People who change their own oil (do-it-yourselfers) are not covered, nor are farmers who generate an average of 25 gallons or less of used oil per month in a calendar year. Approximately 700,000 facilities qualify as generators.

Generators simply must:

- Keep storage tanks and containers in good condition;
- Label storage tanks, "used oil";
- Clean up any used-oil spills or leaks to the environment; and
- Use a transporter with an EPA identification (ID) number when shipping used oil off-site.

Service station dealers that comply with these requirements, that send used oil for recycling, and that accept used oil from do-it-yourselfers are not liable for emergency response costs or damages resulting from threatened or actual releases of used oil from subsequent handling of the oil. EPA believes relief from this particular regulatory burden will encourage more service station dealers to collect used oil, thereby increasing used oil recycling by the consumer sector.

Requirements for Processors and Re-refiners

Used oil processors and re-refiners handle and store large quantities of used oil for a wide variety of purposes. Consequently, data suggest that damage from mismanagement of used oil at these facilities is not uncommon, and that stronger controls are necessary. Approximately 300 facilities must comply with these management standards.

Requirements for these facilities include:

- Obtaining an EPA ID number and notifying the Agency of any activities concerning used oil;
- Maintaining storage tanks and containers in good condition, and labeling them "used oil";
- Processing and storing used oil in areas with oil-impervious flooring and secondary containment structures (such as berms, ditches, or retaining walls);
- Clean up any used oil spills or leaks to the environment;
- Preparing a plan and a schedule for testing used oil for halogen content;
- Tracking incoming used oil and out-going recycled used oil products;
- Maintaining certain records and biennial reporting;
- Managing used oil processing and re-refining residues safely; and
- Ensuring that the facility is properly closed when recycling operations cease.

Requirements for Transporters, Collectors, and Burners of Off-Specification Used Oil

A used oil transporter or collector is any person who transports used oil to another site for recycling. Transfer facilities that are holding

areas, such as loading docks and parking and storage areas, must comply with the transporter requirements when used oil shipments are held for more than 24 hours in route to their final destination. Generators who transport less than 55 gallons of their own used oil are exempt from the transporter requirements.

Approximately 400 transporters and collectors also must obtain an EPA ID number and notify the Agency of any activities concerning used oil; maintain storage tanks and containers in good condition, and label them "used oil"; process and store used oil in areas with oil-impervious flooring and secondary containment structures (such as berms or ditches); clean up any used oil spills or leaks to the environment; and track incoming used oil and out-going used oil. In addition, transporters and collectors must:

- Limit storage at transfer facilities to 35 days and
- Test waste in storage tanks that are no longer in service for hazardous characteristics, and, if wastes are hazardous, close them according to existing hazardous waste management requirements.

Used oil burners must comply with the same storage requirements as transporters. Less than 1,000 facilities burn off-specification used oil. Standards for these burners are recodified from 40 CFR Part 266 to 40 CFR Part 279. The Agency plans additional study on used oil burned as fuel.

Requirements for Used Oil Marketers

Marketers of used oil were regulated in 1985. These standards are recodified from 40 CFR Part 266, Subpart E to 40 CFR Part 279. There are no major changes to existing requirements.

Conclusion

In May 1992, EPA determined that listing used oil destined for disposal as a hazardous waste was unnecessary. Combined with that rule, this action fulfills EPA's statutory mandate under the Used Oil Recycling Act of 1980. These management standards—working in tandem with existing laws and regulations—effectively control potential risks while promoting used oil reycling.

Contact

For additional information or to order a copy of the *Federal Register* notice, contact the RCRA Hotline, Monday-Friday, 8:30 a.m. to 7:30 p.m. EST. The national, toll-free number is (800) 424-9346; TDD (800) 553-7672 (hearing impaired); in Washington, D.C., the number is (703) 920-9810, TDD (703) 486-3323.

Copies of documents applicable to this rule may be obtained by writing: RCRA Information Center (RIC), U.S. Environmental Protection Agency, Office of Solid Waste (OS-305), 401 M Street SW, Washington, D.C. 20460.

EXHIBIT 2
DATE 1-6-95
HB 75

Montana Audubon Legislative Fund

P.O. Box 595 • Helena, MT 59624 • 443-3949

Testimony on HB 75
House Natural Resources Committee
January 6, 1995

Mr Chairman and Members of the Committee,

My name is Bill Allen and I am here representing the Montana Audubon Legislative Fund. On behalf of our 2,500 statewide members, I would like to express our support for House Bill 75.

Our support is based on two premises. First of all, used oil poses a severe environmental risk to surface and ground water reserves throughout the state. Used oil which is discarded in streets or landfills can eventually make its way into our underground water reserves. One gallon of used oil from a single oil change can ruin one million gallons of fresh water - a year's supply for 50 people. The potential environmental damage is staggering when one considers that in 1991, state officials estimated that 2.2 million gallons of used oil are produced annually in Montana.

Secondly, this bill would allow the Department of Health and Environmental Sciences to begin to effectively regulate the disposal and recycling of used oil by following the guidelines established by the Environmental Protection Agency.

We urge your support for House Bill 75 so that this potential environmental threat can be properly managed by the state in accordance with federal regulations.

Thank You

EXHIBIT 3
DATE 1-6-95
HB 75

HOUSE BILL 75 - WISEMAN

Presented by Montana Petroleum Marketers Association
Ronna Alexander-Executive Director

Amendment to Statement of Intent: Strike the entire second paragraph; "In adopting administrative rules, etc."

Amendment to Section 1, 75-10-402, line 27, Strike; "that is not hazardous".

Amendment to Section 1, 75-10-402, lines 2, 3 & 5, Strike, "that is not hazardous".

Amendment to Section 3, 75-10-405, line 6, Strike, "that is not hazardous".

Amendment to Section 3, 75-10-405, under (2)(b), add (i) "does not apply to used oil generators or used oil facilities".

HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER

Natural Resources COMMITTEE BILL NO. HB 75

DATE 1-6-95 SPONSOR(S) Rep. Wiseman

PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
Maureen Cleary-Schwinden	WIFE	75		
Roger Thorvilson	DHES	75		X
Larry Brown	Ag. Pres. Assoc.	75		
Anne Hedges	MEIC	75		X
Eric Finke	EPA	75		
Charles R. Brooks	Big Schumber Yellowstone County	75		
Don Artley	DSL	50		
Russ Ritter	Wash Corp			
Bill Allen	MT Audubon	75		X
Steve Turkiewicz	MT Auto Dealers Assn			X with amendment
~~Gary Fitzpatrick~~	~~J&G Operating~~	~~75~~		X
Bonna Alexander	MT. Petroleum Marketers			X
Roger Bessler	Oily Waste Processors			X

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER

Natural Resources COMMITTEE BILL NO. HB 75

DATE 3-1-6-95 SPONSOR(S)

PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
Joanna Johnson	National Oil Recyclers Ass'n Automotive Oil Change Ass'n	75		X

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

REP. FUCHS said he thought the confusion was over the Board's ability to go to a sliding scale. He pointed out that the part of the bill that was deleted was the part where the sliding scale was used for depths of wells. He said his understanding was that the fee is a fixed fee.

REP. TAYLOR asked **Mr. Anderson** how many wells are actually inspected. **Mr. Anderson** said he wasn't sure how many well are inspected, but there is an examination made of all well records. **REP. TAYLOR** said if all the wells aren't being inspected the Board would be collecting a lot of money for a service it isn't giving.

REP. SWANSON suggested action on HB 72 be postponed until someone from the Board could answer the questions the Committee has.

REP. TASH recalled that **Tom Richmond, Board of Oil and Gas,** said that the $25 fee would recover the Board's costs and that was what he was going to base his decision on.

Vote:

Question was called. Roll call vote was taken. **Motion carried 15 to 3.**

Motion:

REP. HARPER MOVED A THIRD AMENDMENT TO HB 72.

Discussion:

REP. HARPER said that "The legislature urges the Board's consideration of sliding scale fees where appropriate." should be added to the bill on page 1, line 16 following "operator."

Vote:

Question was called. Voice vote was taken. **Motion carried unanimously.**

Motion/Vote:

REP. ORR MOVED HB 72 DO PASS AS AMENDED. Question was called. Voice vote was taken. **Motion carried 16 to 2.**

EXECUTIVE ACTION ON HB 75

Motion:

REP. SLITER MOVED THE AMENDMENT TO HB 75.

Discussion:

CHAIRMAN KNOX asked **REP. SLITER** if he was referring to the amendment by **Ronna Alexander, Executive Director, Montana Petroleum Marketers' Association. REP. SLITER** replied yes, but didn't think **Michael Kakuk, EQC,** had ever been asked to put it in proper format.

Michael Kakuk said he wasn't asked. He said the amendment looked fairly straight-forward but couldn't guarantee it.

CHAIRMAN KNOX reminded the Committee that it is responsible for ensuring amendments are properly drafted.

REP. HARPER agreed with the motion. He said the amendment makes the bill easier to understand in regard to hazardous and non-hazardous oil.

REP. FUCHS said there is oil that is hazardous and oil that is non-hazardous. Hazardous oil would be oil from a vehicle that has metal chips in it; non-hazardous oil would be diesel oil that hasn't been exposed to metal.

REP. HARPER asked how anyone would know if oil was hazardous or non-hazardous. All oil should be treated as if it is hazardous.

REP. SLITER said the words "that is not hazardous" in the amendment are redundant.

REP. RANEY said the Department of Health and Environmental Sciences should explain what "that is not hazardous" means. Both the department and the researchers have said they don't know if that is the right language to put in the bill.

CHAIRMAN KNOX said if the committee is uneasy with the amendment and would like to give **Michael Kakuk** more time to research the amendment, executive action can be postponed.

REP. SLITER withdrew his motion.

CHAIRMAN KNOX suspended executive action on HB 75.

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
54th LEGISLATURE - REGULAR SESSION

COMMITTEE ON NATURAL RESOURCES

Call to Order: By **Rep. Dick Knox, Chair**, on January 11, 1995, at 3:00 p.m.

ROLL CALL

Members Present:

Rep. Dick Knox, Chairman (R)
Rep. Bill Tash, Vice Chairman (Majority) (R)
Rep. Bob Raney, Vice Chairman (Minority) (D)
Rep. Aubyn A. Curtiss (R)
Rep. Jon Ellingson (D)
Rep. David Ewer (D))
Rep. Hal Harper (D)
Rep. Karl Ohs (R)
Rep. Scott J. Orr (R)
Rep. Paul Sliter (R)
Rep. Robert R. Story, Jr. (R)
Rep. Jay Stovall (R)
Rep. Emily Swanson (D)
Rep. Lila V. Taylor (R)
Rep. Cliff Trexler (R)
Rep. Carley Tuss (D)
Rep. Douglas T. Wagner (R)

Members Excused: Rep. Fuchs

Members Absent:

Staff Present: Michael Kakuk, Environmental Quality Council
Alyce Rice, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:
Hearing: None
Executive Action: HB 75 Do Pass as Amended

Tape 1 Side A

EXECUTIVE ACTION ON HB 75

Motion:

REP. PAUL SLITER MOVED AN AMENDMENT TO HB 75.

Discussion:

REP. HAL HARPER asked **Michael Kakuk, EQC,** if the amendment had any significant affect on HB 75. **Mr. Kakuk** said he had conversed with Department of Health and Evironmental Services (DHES) personnel and was told that the amendments did not have any significant affect on HB 75 and the department would not oppose them. **Mr. Kakuk** said he faxed a copy of the amendment to **Mark Staley, Attorney, DHES,** but had not heard from him. He noted that **Mr. Staley** was present in the audience. **CHAIRMAN KNOX** asked **Mr. Staley** if he would care to comment. **Mr. Staley** told the committee the amendments did not have any significant affect on the bill.

Vote:

Question was called. Voice vote was taken. **Motion to amend HB 75 carried unanimously.**

Motion/Vote:

REP. SLITER MOVED HB 75 DO PASS AS AMENDED. Question was called. Voice vote was taken. **Motion carried 16 to 2. REP. ORR** and **REP. CURTISS** voted no.

Tape 1 of 1.

ADJOURNMENT

Adjournment: 3:30 p.m.

Dick Knox

REP. Dick Knox, Chairman

Alyce Rice

Alyce Rice, Secretary

DK/ar

HOUSE STANDING COMMITTEE REPORT

January 12, 1995

Mr. Speaker: We, the committee on Natural Resources report that House Bill 75 (first reading copy -- white) do pass as amended.

Signed: Dick Knox
Dick Knox, Chair

And, that such amendments read:

1. Page 1, lines 16 through 21.
Strike: "In" on line 16 through "regulations." on line 21

2. Page 1, line 27.
Following: "oil"
Strike: "that is not hazardous"

3. Page 2, lines 2, 3, and 5.
Following: "oil"
Strike: "that is not hazardous"

4. Page 5, line 6.
Following: "oil"
Strike: "that is not hazardous"

5. Page 6, line 13.
Following: "require"
Insert: "hazardous waste"
Following: "and"
Insert: "hazardous waste management"

-END-

1/13

Committee Vote:
Yes 16, No 2.

101111SC.Hdh

Proxy 1-11-95

I Daniel Fuchs vote with Doug Wagner on Executive Action on HB 75.

Daniel Fuchs

HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER

Natural Resources COMMITTEE 11- BILL NO. HB75 Ex. Act

DATE 1-10-95 SPONSOR(S) Rep Wissmann

PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
Mark Stahly Helena	MDHES			✓

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

CHAIR. GROSFIELD stated that the answer to that question might be that assuming the bill passes, it will raise $1.5 million and if it doesn't pass they will lose that amount. **Mr. Clinch** explained the funds had to be deposited into a special revenue account in order to expend those funds.

SEN. CRISMORE asked **Mr. Clinch** if he agreed with **CHAIR. GROSFIELD'S** explanation regarding the $1.5 million. **Mr. Clinch** said that was correct, and without that there wouldn't be any funding for the 6 FTE and the services they provided.

SENATOR VIVIAN BROOKE asked **REP. LARSON** if he was in favor of LC 294. **REP. LARSON** answered that he was in support of LC 294. This is the first time that proceeds from timber sales have been used to fund the staff.

SEN. BROOKE asked **Mr. Allen** if he agreed with the fiscal note that says that the current value of timber was $290 per thousand board feet. One of the concerns is that federal sales may be opening up and might make an impact on the value because of an over-supply of timber. **Mr. Allen** said that the $290 per thousand board feet was a conservative estimate, because the amount is actually over $400 per thousand board feet. He didn't think there was a concern with federal timber sales.

SENATOR THOMAS KEATING said that this should be a proprietary fund instead of a special revenue fund because the program is funding itself out of the proceeds from state property.

{Tape: A; Side: B; Comments: Tape tends to slow off and on.}

Closing by Sponsor:
REP. LARSON said the revenue that is generated from timber sales will help to defray property taxes, which is very important for the school funding formula. HB 50 helps the land board to acquire the highest return from state lands. He said that according to **Commissioner Clinch,** it is an understatement that the return is currently $290 per thousand board feet on an average. He said it is actually up around $500 to $600 per thousand board feet. HB 50 gives the Department some flexibility with the timber market.

HEARING ON HB 75

Opening Statement by Sponsor:
REP. WILLIAM WISEMAN, District 41, Malmstrom Air Force Base and east and south of Great Falls, said he was carrying HB 75 at the request of the Department of Health and Environmental Sciences. The last 8 years the Environmental Protection Agency has had very strict regulations on the disposal of used oil. The EPA decided used oil was not a hazardous waste, but should be handled very carefully. He said he was referring to oil that comes from the engines or crankcases of cars, tractors, machinery, etc. He said

there is nothing in the Montana codes pertaining to waste oil. Under the EPA, if anyone is caught mishandling waste oil they will be prosecuted under federal law. HB 75 addresses the handling of waste oil. There is a business in Great Falls called Oily Waste Processors that has routes to pick up used oil at no charge to service stations or collectors of waste oil. That oil is hauled to Great Falls and processed by taking the water, dirt, etc. out of the waste oil and then selling it to asphalt plants and other industrial uses where people burn heating oil, etc.

REP. WISEMAN said individuals can continue to change their own oil. Ranchers and farmers who accumulate less than 24 gallons per month can continue to do what they were doing with their used oil. Some people spray their used oil on the road for dust control. They can continue to do so as long as it is sprayed on the owner's property. He said the penalties for mishandling used oil by the federal government are equal to, or tougher than in HB 75. **REP. WISEMAN** said it is important that Montana adopt the EPA rules governing the management of used oil. **EXHIBIT 1.**

Proponents' Testimony:

Roger Thorvilson, Department of Health and Environmental Sciences, reviewed the statement of intent of SB 212 from the 1981 legislative session in regard to the disposal of hazardous waste. **EXHIBIT 2.** The environmental fact sheet lists the management standards issued to control potential risks from recycled used oil. **EXHIBIT 2a.**

Mr. Thorvilson stated that the safe and proper management of hazardous wastes, the permitting of hazardous waste facilities, and the siting of facilities are matters for statewide regulation and these environmental issues should be addressed by the state rather than the federal government. **EXHIBIT 3.**

Bill Allen, representing the Montana Audubon Legislative Fund, said they support HB 75 so that potential environmental threats can be properly managed by the state in accordance with federal regulations. **EXHIBIT 4.**

Steve Turkiewicz, representing the Montana Auto Dealers Association, the National Oil Recyclers Association and the Automotive Oil Change Association, said they are in support of HB 75 because it is a crucial step for used oil recycling in Montana. The federal used oil management standards provide protection of both the environment and businesses which promote the collection and recycling of used oil. **EXHIBIT 5.**

Opponents' Testimony: None

Questions From Committee Members and Responses:
SEN. B. F. "CHRIS" CHRISTIAENS asked **Mr. Thorvilson** if there were fees generated that would pay for the DHES services.

Mr. Thorvilson said the primary funding for the program is Resource Indemnity Trust funds that has a state match and an annual renewable federal grant. There are some fees, but they do not apply to used oil. There is an annual fee for hazardous generators that derives approximately $30,000 to $40,000 of revenue per year, which is deposited into the general fund. He said in the last session there was some fee language added to the bill to deal with commercial facilities handling hazardous waste. There was an application fee and also a per ton fee for a commercial facility that accepts hazardous waste.

SEN. CHRISTIAENS asked **Mr. Thorvilson** if the penalty fees could be lowered, or are they patterned after the federal fees. **Mr. Thorvilson** said states are allowed to have lower penalty amounts than the federal penalty fees. For administrative or civil penalties, the state is allowed up to $10,000 and the federal maximum penalty is $25,000. Under criminal violation the state is allowed up to $25,000 and the federal maximum is $50,000.

SEN. BILL WILSON asked **Mr. Thorvilson** to clarify if someone changes their own oil can they dump it on their own land. **Mr. Thorvilson** answered that you cannot use oil on parking lots and roads for dust suppression. However, there are two exceptions: 1. individual home owners, and 2. farmers who produce less than 25 gallons per month.

CHAIR. GROSFIELD said that they were dealing with a primacy issue. He asked **Mr. Thorvilson** if there is any assurance that if HB 75 is passed, the EPA will give the state primacy. **Mr. Thorvilson** said an EPA representative attended the committee hearing in the House, and he said they would view HB 75 favorably. The EPA individually screens rules and they do a very careful evaluation. The rules will be identical to EPA's, with the exception that EPA's will say EPA and Montana's rules will refer to the department. Therefore, he did not see any problem with authorization.

CHAIR. GROSFIELD said it was his understanding that there have been a number of primacy requests pending before the EPA for years. He asked **Mr. Thorvilson** if he thought the EPA would approve primacy, when they are hesitant in other areas. **Mr. Thorvilson** replied there is a backlog of applications that relates to a number of things. For example, during one of the first applications to update their authorization, there was a disagreement with EPA over the department's approach to equivalence, and it took a long time to resolve that issue. He said there is a backlog on applications, and doesn't expect EPA to act instantly on the application they will receive this summer. However, it should be an easy authorization for EPA to make.

{Tape: 2; Side: A}

Closing by Sponsor:
REP. WISEMAN noted that there were also no opponents to HB 75 in the House. He said there is no reason to mishandle used oil because of the options available. If HB 75 is not passed and someone is caught mishandling used oils, they will be in federal court dealing with the federal bureaucracy. If HB 75 is passed, and there is a violation, they will be dealt with in state district court.

EXECUTIVE ACTION ON SB 48

Motion: **SEN. KEATING MOVED SB 48 DO PASS**

Substitute Motion: **SEN. KEATING PRESENTED AMENDMENTS TO SB 48 AS CONTAINED IN EXHIBIT 6.**

Discussion:
SEN. BROOKE asked **SEN. KEATING** how many 30 day extensions there could be, because it appeared there was only one extension in the original language. **SEN. KEATING** said the applicant can ask for more than one 30 day extension.

Vote: **MOTION TO AMEND SB 48 AS AMENDED IN EXHIBIT 6, PASSED UNANIMOUSLY.**

SEN. MIKE FOSTER reviewed his amendment to SB 48 as contained in **EXHIBIT 7.**

SEN. FOSTER said the state designed SB 48 to allow both civil and criminal penalties in order to be consistent with the EPA and Title 5. He stated that it should be limited to the operator permitting program, instead of the entire Clean Air Act of Montana.

SEN. CHRISTIAENS asked the department how they perceive the amendment. **David Rusoff, Attorney, Department of Environmental Health**, said the civil penalty in the Montana Clean Act arose out of their attempt to get approval of the Title 5 program from EPA. In 1993 EPA indicated the "in lieu of language" was a potential barrier to EPA approval of the Title 5 permit program. He said their initial concern would be if there was a protection problem. There could be two facilities committing the same violation and one could be under Title 5 and the other may not. The facility that would not be under the Title 5 program, would be subject to enforcement by EPA, because the state wouldn't have the authority to pursue a criminal penalty they would however be subject to a civil action by the state. Those facilities that are under Title 5, would be subject to both civil and criminal penalties. The courts would have to decide if there is a constitutional problem. If that language was removed, then the department would have the authority to impose a criminal and civil violation on a facility.

Mr. Rusoff said all facilities in the state should be treated the same way whether a criminal or civil penalty occurs. Another

MONTANA SENATE
1995 LEGISLATURE
NATURAL RESOURCES COMMITTEE

ROLL CALL DATE 1-20-95

NAME	PRESENT	ABSENT	EXCUSED
SEH VIVIAN BROOKE	✓		
B.F. "CHRIS" CHRISTIAENS	✓		
MACK COLE	✓		
WILLIAM CRISMORE	✓		
MIKE FOSTER	✓		
TOM KEATING	✓		
KEN MILLER	✓		
JEFF WELDON	✓		
BILL WILSON			✓
LARRY TVEIT, VICE CHAIRMAN	✓		
LORENTS GROSFIELD, CHAIRMAN	✓		

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MPMA

MONTANA PETROLEUM MARKETERS ASSOCIATION

SENATE NATURAL RESOURCES
EXHIBIT NO. 1
DATE 1-20-95
BILL NO. HB 75

Janaury 20, 1995

Re: House Bill 75 - Representative Wiseman

I am submitting this testimony on behalf of the Montana Petroleum Marketers who are the wholesalers and distributors of petroleum products in Montana. A majority of these 115 members also own their own retail locations.

The association supports House Bill 75 as amended. The amendments that were offered clarify certain language and eliminate language that was confusing.

It is important that Montana adopt the U.S. EPA rules governing the management of used oil. It's important to insure the proper handling of used oil, and also to provide those that do handle the products the liability protection provided in the rules. This is called the Service Station Dealer Exemption (CERCLA, 42 U.S.C. §9601(37)(A), which will prevent station operators who follow the management standards and collect used oil from do-it-yourselfers from being held as responsible parties in situations where recyclers who subsequently take marketers' used oil cause contamination.

We urge the committee's approval of House Bill 75.

Respectfully submitted;
Ronna Alexander
Executive Director

BOX 306, HELENA MT 59624, 406/449-4133, FAX 406/449-2342

1981 Legislature

SENATE NATURAL RESOURCES
EXHIBIT NO. 2
DATE 1-20-95
BILL NO. HB 75

STATEMENT OF INTENT
SENATE BILL 212
Senate Public Health Committee

A statement of intent is required for this bill because it delegates rulemaking and licensing authority to the Department of Health and Environmental Sciences. Senate Bill 212 is intended to separate from the existing Montana Solid Waste Management Act (Title 75, chapter 10, part 2) all references to the treatment, storage, disposal, generation, and transportation of hazardous wastes and place the statutes regulating hazardous wastes into a separate part of the code. The specific objective and intent of the bill is to clarify and extend state rulemaking authority in order to be totally authorized by the Administrator of the Environmental Protection Agency (EPA) to operate a hazardous waste program in Montana which is equivalent to and in lieu of the federal hazardous waste program established by Subtitle C of the Resource Conservation and Recovery Act (RCRA) of 1976, P.L. 94-580, as amended.

The rules promulgated and permitting procedures adopted under this bill shall meet minimum standards under RCRA and shall not be more restrictive than those analogous provisions in which EPA has adopted regulations under RCRA. In the limited situations in which no federal regulations have been adopted or the drafting of regulations has been purposefully left to the states, the Department must be guided and constrained by the purpose set forth in Section 9, the powers of the Department noted in Section 11, the rulemaking guidelines of Section 12, and the minimum requirements of RCRA.

It should be noted that Montana has enacted regulatory provisions under existing Title 75, chapter 10, part 2, the Solid Waste Management Act, and has sufficient coverage of hazardous waste responsibilities enabling the state to qualify for interim authorization from EPA to carry out a program in lieu of the federal RCRA hazardous waste program. This bill grants the Department authority to make additional adjustments, through rulemaking, which will bring its program affecting generators and transporters of hazardous wastes, the universe of hazardous waste, inspection and sampling, definitions, enforcement alternatives and penalties into equivalency and consistency with federal requirements.

Senate Bill 212 intends that the Department of Health and Environmental Sciences shall have authority to require by rule, in accordance with the Montana Administrative Procedure Act, that generators of hazardous wastes, prior to transporting hazardous wastes or offering them for transport offsite, must perform certain packaging, labeling, marking and placarding of the wastes in a manner equivalent to the provisions of federal regulations contained in 40 CFR 262.30 through 262.33. The Department shall

United States
Environmental Protection
Agency

Solid Waste and
Emergency Response
(OS-305)

EP/530-F-92-018
August 1992

Office of Solid Waste

EPA

Environmental Fact Sheet

SENATE NATURAL RESOURCES
EXHIBIT NO. 2a
DATE 1-20-95
BILL NO. HB-75

Management Standards Issued To Control Potential Risks from Recycled Used Oil—No Hazardous Waste Listing

The Environmental Protection Agency (EPA) has issued management standards for recycled used oil that protect human health and the environment while promoting recovery of this valuable commodity. These management standards avoid unnecessary regulatory and financial burdens on the used oil recycling industry—particularly service station dealers.

Action

EPA has issued management standards for recycled used oil that provide strong safeguards against any potential types of mishandling that may occur. The management standards address potentially unsafe practices associated with improper storage of used oil, road oiling, and contamination of used oil from hazardous waste. By controlling these practices with management standards, listing recycled used oil as a hazardous waste is unnecessary.

The management standards cover all segments of the used oil recycling system, and are codified in a new Part 279 of Title 40 of the *Code of Federal Regulations* (CFR). While generators are the largest segment of this industry, the most stringent standards apply to used oil processors and re-refiners because they handle the largest quantities of used oil. The standards are not expected to cause major economic impacts, but are designed to correct and control certain practices. They prohibit storage in unlined surface impoundments and road oiling (except in states authorized to manage their own hazardous waste programs).

Requirements for Service Stations and Other Generators

A generator is any business which produces used oil through commercial or industrial operations, or that collects it from these operations or private households. Besides vehicle repair shops and

SENATE NATURAL RESOURCES
EXHIBIT NO. 2a
DATE 1-20-95
HB-75

generators are military motorpools; taxi, bus, and delivery companies; and shipyards. People who change their own oil (do-it-yourselfers) are not covered, nor are farmers who generate an average of 25 gallons or less of used oil per month in a calendar year. Approximately 700,000 facilities qualify as generators.

Generators simply must:

- Keep storage tanks and containers in good condition;
- Label storage tanks, "used oil";
- Clean up any used-oil spills or leaks to the environment; and
- Use a transporter with an EPA identification (ID) number when shipping used oil off-site.

Service station dealers that comply with these requirements, that send used oil for recyclng, and that accept used oil from do-it-yourselfers are not liable for emergency response costs or damages resulting from threatened or actual releases of used oil from subsequent handling of the oil. EPA believes relief from this particular regulatory burden will encourage more service station dealers to collect used oil, thereby increasing used oil recycling by the consumer sector.

Requirements for Processors and Re-refiners

Used oil processors and re-refiners handle and store large quantities of used oil for a wide variety of purposes. Consequently, data suggest that damage from mismanagement of used oil at these facilities is not uncommon, and that stronger controls are necessary. Approximately 300 facilities must comply with these management standards.

Requirements for these facilities include:

- Obtaining an EPA ID number and notifying the Agency of any activities concerning used oil;
- Maintaining storage tanks and containers in good condition, and labeling them "used oil";
- Processing and storing used oil in areas with oil-impervious flooring and secondary containment structures (such as berms, ditches, or retaining walls);
- Clean up any used oil spills or leaks to the environment;
- Preparing a plan and a schedule for testing used oil for halogen content;
- Tracking incoming used oil and out-going recycled used oil products;
- Maintaining certain records and biennial reporting;
- Managing used oil processing and re-refining residues safely; and
- Ensuring that the facility is properly closed when recycling operations cease.

Requirements for Transporters, Collectors, and Burners of Off-Specification Used Oil

A used oil transporter or collector is any person who transports used oil to another site for recycling. Transfer facilities that are holding

areas, such as loading docks and parking and storage areas, must comply with the transporter requirements when used oil shipments are held for more than 24 hours in route to their final destination. Generators who transport less than 55 gallons of their own used oil are exempt from the transporter requirements.

Approximately 400 transporters and collectors also must obtain an EPA ID number and notify the Agency of any activities concerning used oil; maintain storage tanks and containers in good condition, and label them "used oil"; process and store used oil in areas with oil-impervious flooring and secondary containment structures (such as berms or ditches); clean up any used oil spills or leaks to the environment; and track incoming used oil and out-going used oil. In addition, transporters and collectors must:

- Limit storage at transfer facilities to 35 days and
- Test waste in storage tanks that are no longer in service for hazardous characteristics, and, if wastes are hazardous, close them according to existing hazardous waste management requirements.

Used oil burners must comply with the same storage requirements as transporters. Less than 1,000 facilities burn off-specification used oil. Standards for these burners are recodified from 40 CFR Part 266 to 40 CFR Part 279. The Agency plans additional study on used oil burned as fuel.

Requirements for Used Oil Marketers

Marketers of used oil were regulated in 1985. These standards are recodified from 40 CFR Part 266, Subpart E to 40 CFR Part 279. There are no major changes to existing requirements.

Conclusion

In May 1992, EPA determined that listing used oil destined for disposal as a hazardous waste was unnecessary. Combined with that rule, this action fulfills EPA's statutory mandate under the Used Oil Recycling Act of 1980. These management standards—working in tandem with existing laws and regulations—effectively control potential risks while promoting used oil reycling.

Contact

For additional information or to order a copy of the *Federal Register* notice, contact the RCRA Hotline, Monday-Friday, 8:30 a.m. to 7:30 p.m. EST. The national, toll-free number is (800) 424-9346; TDD (800) 553-7672 (hearing impaired); in Washington, D.C., the number is (703) 920-9810, TDD (703) 486-3323.

Copies of documents applicable to this rule may be obtained by writing: RCRA Information Center (RIC), U.S. Environmental Protection [illegible] (OS-305), 401 M Street SW, Washington,

SENATE NATURAL RESOURCES
EXHIBIT NO. 3
DATE 1-20-95
BILL NO. HB 75

Department of Health & Environmental Sciences
Testimony in Support of HB 75

Senate Natural Resources Committee
January 20, 1995

The department has operated a state hazardous waste program pursuant to state law and under an authorization agreement with the US EPA since 1981. Under the "Findings and Purpose" section (§ 75-10-402) of the Montana Hazardous Waste and Underground Storage Tank Act (MHWUSTA), it is stated that *"The legislature finds that the safe and proper management of hazardous wastes, the permitting of hazardous waste facilities, and the siting of facilities are matters for statewide regulation and are environmental issues that should properly be addressed and controlled by the state rather than by the federal government."* The amendments to MHWUSTA set forth in this bill are necessary to update the state program to include used oil authority, to maintain its equivalence with the federal program, and to ensure that regulatory controls are exercised by the state, rather than the federal government, in Montana. Another purpose of the bill, and of the administrative rules that the department intends to adopt upon passage of the bill, is to foster used oil recycling as opposed to disposal.

Should this bill be enacted, the department will exercise MHWUSTA authority over the management of used oil and will adopt administrative rules equivalent to and no more stringent than those adopted by the US EPA in 1992 and codified in 40 CFR Part 279. To a significant extent collectors and processors of used oil in Montana and surrounding states already are meeting the requirements of 40 CFR Part 279. Passage of this bill, therefore, will not cause disruptions in the current system of used oil collection and management.

I am providing as a handout an EPA summary of the Part 279 used oil management standards. You will note from this summary

SENATE NATURAL RESOURCE
EXHIBIT NO. 4
DATE 1-20-95
BILL NO. HB 75

Montana Audubon Legislative Fund

P.O. Box 595 • Helena, MT 59624 • 443-3949

Testimony on HB 75
Senate Natural Resources Committee
January 20, 1995

Mr Chairman and Members of the Committee,

My name is Bill Allen and I am here representing the Montana Audubon Legislative Fund and I would like to express our support for House Bill 75.

Used oil poses a severe environmental risk to surface and ground water reserves throughout the state. Used oil which is discarded in streets or landfills can eventually make its way into our underground water reserves. One gallon of used oil from a single oil change can ruin one million gallons of fresh water . The potential environmental damage is staggering when one considers that in 1991, state officials estimated that 2.2 million gallons of used oil are produced annually in Montana.

This bill would give the Department of Health and Environmental Sciences the needed authority to begin to effectively regulate the disposal and recycling of used oil by following the guidelines established by the Environmental Protection Agency.

We urge your support for House Bill 75 so that this potential environmental threat can be properly managed by the state in accordance with federal regulations.

Thank You

SENATE NATURAL RESOURCES
EXHIBIT NO. 5
DATE 1-20-95
BILL NO. HB 75

TESTIMONY OF

THE NATIONAL OIL RECYCLERS ASSOCIATION &
THE AUTOMOTIVE OIL CHANGE ASSOCIATION

SUBMITTED TO

THE STATE OF MONTANA SENATE COMMITTEE ON NATURAL RESOURCES

REGARDING HOUSE BILL 75

JANUARY 20, 1995

As the national representatives for over 1,200 quick-lube facilities and more than 100 used oil collectors and marketers, many of which operate in the state of Montana, the Automotive Oil Change Association (AOCA) and the National Oil Recyclers Association (NORA) are very much in favor of House Bill 75. House Bill 75 is a crucial step for the used oil recycling chain in Montana because it would provide the authority for Montana's adoption of the federal used oil management standards found in 40 C.F.R. part 279. The federal used oil management standards provide an excellent framework for businesses engaged in used oil generation, collection, transportation, and/or processing/recycling. The federal used oil management standards also provide dual protection of both the environment and the businesses which promote the collection and recycling of used oil. Under federal law, used oil managed under the federal used oil management standards is specifically classified as a nonhazardous waste. This nonhazardous listing is critical to the collection of do-it-yourselfer used oil because, without it, collection of do-it-yourselfer used oil would be cost-prohibitive for most quick-lubes, service stations, and recyclers. The recycling chain could not afford to exist.

Additionally, under federal law, those businesses which qualify under the definition of "service station dealer," follow the federal used oil management standards, and collect do-it-yourselfer used oil are sheltered from Superfund liability under the "service station dealer exemption." The quick-lube businesses and oil recyclers in Montana need this exemption. AOCA's members collect hundreds of thousands of gallons of used oil annually from do-it-yourselfers on a volunteer basis. Few if any of these businesses make a dime on their collection activities. AOCA members consider their collection activities a public service. Nevertheless, if an AOCA member were to give a load of used oil to a facility

that later becomes a Superfund site, that member would be treated as a liable party unless it could avail itself of the service station dealer exemption. Similarly, NORA members, who collect over one-half of all used oil that is recycled in the United States each year, are subject to devastating liability under Superfund for the actions of "end-users" unless they have the opportunity to qualify for the service station dealer exemption. Until the federal used oil regulations are adopted by Montana, *none* of its businesses may qualify for the exemption.

Therefore, AOCA and NORA urge the Senate Natural Resources Committee to pass House Bill 75 and give Montana the opportunity to participate in an established regulatory system that protects both the environment and the economy.

DATE 1-20-95

SENATE COMMITTEE ON Natural Resources

BILLS BEING HEARD TODAY: HB-50 HB-75

< ■ > PLEASE PRINT < ■ >

Check One

Name	Representing	Bill No.	Support	Oppose
Roger Thorvilson	Dept. of Health & Env. Science	HB75	X	
Bill Allen	MT. Audubon	HB 75	X	
BUD CLINCH	DSL	HB-50	X	
Steve Turkiewicz	Mt. Auto Dealers Assn	HB75	X	
Anne Hedges	MEIC	HB 75	X	
Jon Ellis	MWPA	HB50	✓	
Jim Jensen	MEIC	HB50	X	
Peggy Beltrone	Cascade County Comm.	Just Visiting		
Russ Hudson	Libby Area Conservancy Dist	N/A		
John K. McBride	Libby Area Conservancy Dist	—		

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

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making. **Mr. Melstad** said the current regulations require a 60 day turn-around time for compliance. The current rules do not address industrial waste systems.

CHAIR. GROSFIELD asked **Mr. Pilcher** if he would comment on the time-frame issue and other types of drainage they were referring to. **Mr. Pilcher** answered that the requirement for a plant inspection review is tied to facilities that have a potential of impacting water quality. He said acid mine waste that could be discharged from a waste rock pile containing highly acidic mineral water, could impact state waters. The department has not attempted to apply that to an irrigation system or every culvert. He said their intent was to restrict the review to those facilities that have a potential impact on water quality. The purpose of review is to ensure that the facility will perform as expected. He said they want to make sure the facility meets all public health standards and that they are in conformance with the regulations. They have not reviewed industrial waste water treatment facilities because of lack of resources, etc. He said they are attempting to address those in order to be consistent.

CHAIR. GROSFIELD asked **Mr. Pilcher** if he would comment on the amendments to HB 153. **Mr. Pilcher** said if **Mr. Melstad** was comfortable with the amendments, the department would support them.

{Tape: 2; Side: B}

Closing by Sponsor:

SEN. BROOKE suggested that a grey bill be prepared with the amendments to help sort through the intent of the amendments and get a better understanding of the changes. There are some good proposals in the bill that say there should be more local control and more involvement in protecting public health. She said the wellhead protection program proposed in the bill, goes to the heart of having local people involved. **SEN. BROOKE** stated that she had the booklet on waste water operator's certification, and asked the committee to work on the bill and come up with a better solution than in the original bill.

CHAIR. GROSFIELD requested that **Todd Everts, Environmental Quality Council,** put together a grey bill just for the committee members, that would make it easier to deal with the bill in executive session.

EXECUTIVE ACTION ON HB 75

Motion/Vote: **SEN. FOSTER MOVED HB 75 BE CONCURRED IN. MOTION PASSED UNANIMOUSLY.**

{Comments: this session was recorded on two 60 minute tapes.}

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SENATE STANDING COMMITTEE REPORT

January 23, 1995

MR. PRESIDENT:

We, your committee on Natural Resources having had under consideration HB 75 (third reading copy -- blue), respectfully report that HB 75 be concurred in.

Signed: Lorents Grosfield
Senator Lorents Grosfield, Chair

Amd. Coord.
SA Sec. of Senate

Sen. Mike Foster
Senator Carrying Bill

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